TABLE OF INDICES TO VOLUME XII

AUTHOR INDEX

Blaymore, Amy	Retroactive Application of Superfund: Can Old Dogs Be Taught New Tricks?	1
Bleisch, N. David	The *Congressional Record* and the First Amendment: Accuracy is the Best Policy ...	341
Boe, Kathy Smith	Paraquat Eradication: Legal Means for a Prudent Policy? ..	491
Braden, John B., Carlson, J. Lon, Martin, David W.	Implications of Executive Order 12,291 For Discretion in Environmental Regulation	313
Carlson, J. Lon, Braden, John B., Martin, David W.	Implications of Executive Order 12,291 For Discretion in Environmental Regulation	313
Clark, Neil	Section 106 of CERCLA: An Alternative to Superfund Liability	381
Cleaves, Robert E., IV	Constitutional Protection for the Utility Investor: The Confiscation Doctrine After *Cleveland Electric Illuminating Co. v. Public Utilities Commission of Ohio*	527
Cutler, Joel	THE CONSERVATION EASEMENT IN CALIFORNIA. By Thomas S. Barrett and Putnam Livermore (Book Review)	215
Doneski, David	Cleaning up Boston Harbor: Fact or Fiction?	559
Eisenbud, Robert	Problems and Prospects for the Pelagic Driftnet	473

Fitzgerald, Edward A.	*Secretary of Interior v. California*: Should Continental Shelf Leases Sales Be Subject to Consistency Review?	425
Giglio, Sheila Bond	Transportation of Spent Nuclear Fuel: The Need for a Flexible Regulatory System	51
Guarascio, John A.	Ocean Dumping Regulation after *City of New York v. Environmental Protection Agency*	701
Holland, Maria C.	Judicial Review of Compliance with the National Environmental Policy Act: An Opportunity for the Rule of Reason	743
Kindt, John Warren	Particulate Pollution and the Law of the Sea	273
Lee, William P.	FLPMA's Legislative Veto Provisions and *INS v. Chadha*: Who Controls the Federal Lands?	791
Martin, David W.	TOO HOT TO HANDLE? SOCIAL AND POLICY ISSUES IN THE MANAGEMENT OF RADIOACTIVE WASTES. By Charles A. Walker, LeRoy C. Gould, and Edward J. Woodhouse (Book Review)	823
Martin, David W., Carlson, J. Lon, Braden, John B.	Implications of Executive Order 12,291 For Discretion in Environmental Regulation	313
Reese, Craig E.	INCENTIVES FOR ENVIRONMENTAL PROTECTION. Edited by Thomas C. Shelling (Book Review)	419
Rothstein, Mark A.	Substantive and Procedural Obstacles to OSHA Rulemaking: Reproductive Hazards as an Example	627

Schwartz, Edward B.	Water as an Article of Commerce: State Embargoes Spring a Leak under *Sprohase v. Nebraska*	103
Thomas, Charlotte E.	The Cape Cod National Seashore: A Case Study of Federal Administrative Control over Traditionally Local Land Use Decisions	225
Verdicchio, Susan	Environmental Restoration Orders	171

TOPICAL INDEX

Boston Harbor 559
Cape Cod Formula 231
  Constitutional Validity 244
  Effects 254
  Improvements 265
Cape Cod National Seashore 225
  Federal Land Use Control (Cape Cod Formula) 231
CERCLA, Section 6
  Liability Standard 410
Charitable Trust Doctrine
  Principles 748
  Policy and Components 750
  Application to NEPA 755
Congressional Record 341
  History 343
  Functions 346
  Revision Privilege 348
    abuse 352
  First Amendment 363
  Accuracy 363
Conservation Easement
  California 215
  Tax Consideration 220
Environmental Impact Statements
  NEPA's "action-forcing" mechanism
Environmental Protection Incentives 419
Environmental Regulation 313
  Executive Order 12,291 implementation 316
    EPA response 330
Environmental Restoration Orders 171
  Traditional Equity Doctrine 174
  Trespass and Nuisance Precedent 176
  Public Nuisance 179
  Environmental Remedy 183
Federal Land Policy Management Act 791
Fishery Conservation Zone 484

Groundwater
Contamination by Hazardous Wastes 384
Hazardous Wastes
Contamination of Groundwater 384
Abatement 387
Application of CERCLA, Section 106 381
Judicial Review of NEPA EIS as Basis 781
Administrative Record as Basis 781
Land Use Policy
Cape Cod 250
Law of the Sea 280
Protection of Marine Environment 302
Lease Sale 53 Litigation 433
Congressional Response 469
Legislative Vetoes
Article I Analysis 806
Separation of Powers Analysis 816
Marijuana
Health Risks 498
Control of Production and Use 501
Marine Sanctuaries 711
Mining, Deep Seabed 274
National Environmental Policy Act of 1969 (NEPA)
Purpose 743
Judicial Review of Compliance 781
Proposed Amendments 787
Nuclear Fuel, Transportation of 51
National Regulatory Scheme 63
Legal Debate 72
Highway
Transportation safety risks 55
Water transportation 90
Ocean Dumping
Regulation 701
Nature and Dangers of Waste Material 703
National Policy 710
CEQ Report 710
OPRM Proposal 735
OSHA Health Standards
Environmental Monitoring 631
Biological Monitoring 634
Medical Surveillance 634
Outer Continental Shelf
Oil and Gas Resource Development 425
Application of CZMA Consistency Requirement 426
Paraquat 491
Use in Marijuana Eradication 493
Description 494
Mexican Spraying Program 502
U.S. Program—DMEP 507
validity under NEPA 510
EIS requirement 511
Pelagic Driftnets 473
North Pacific 476
Problems 477
Remedial Measures 480
Police Powers
Commerce Clause Limitation 107
Pollution, particulate 274

Radioactive Waste
Management
Establishment of
Standards 823
Geologic Disposal of
High Level
radioactive waste and
spent nuclear fuel 825
Regulation of Ocean
Dumping
Types of Permits 717
Reproductive Hazards
under OSHA
Regulation of 630
Identification and
Research 650
Regulatory Options and
Obstacles 659
Health Standards
Requirements 660
Sewage Sludge,
Elimination of
Ocean Dumping 732
Superfund (CERCLA)
Retroactive Application 10
constitutional
challenges 20
due process 20
contract 36
takings 40
ex post facto 46
Superfund Liability 381
Utilities
Nuclear Power
Generation 527
Rate-Making 532
cancellation costs 538
confiscation doctrine 546
Water Embargo Statutes 112
Effect of *Sporhase* 129
Water Policy, Federal
Effect of *Sporhase* 133
Water Policy, State
Exemption, from
Commerce Clause
Scrutiny 134
Ownership Theory 136
Police Powers Theory 147
Market Participant 153
Sovereignty 157
Water Pollution
Boston Harbor 567
Federal Regulation 583
State Regulation 591
Control Efforts 594

MAJOR CASES

American Cyanimid Co., 9 OSHC 1596, 1981 OSHD ¶ 25,338 (1981), *aff'd*, 741 F.2d 444 649
American Textile Manufacturers Institute, Inc. v. Donovan, 452 U.S. 490 (1981) 670
Bergen County Utilities Authority v. United States Environmental Protection Agency, 507 F. Supp. 780 (D. N.J. 1981) 728
Biderman v. Morton, 497 F.2d 1141 (2d Cir. 1974) 255

City of Altus v. Carr, 255 F. Supp. 828 (W.D. Tex. 1966), *aff'd* mem., 385 U.S. 35 (1966) 114
City of Milwaukee v. Illinois, 451 U.S. 304 (1981) 193
City of New York v. Environmental Protection Agency, 543 F. Supp. 1084 (S.D. N.Y. 1981) 703
City of New York v. United States Dept. of Transportation, 539 F. Supp. 1237 (S.D. N.Y. 1982), *rev'd*, 715 F.2d 732 (2d Cir. 1983), *cert. denied*, 52 U.S.L.W. 3630 (U.S. Feb. 28, 1984) (No. 83-770) 72
City of Quincy v. Metropolitan Dist. Comm'n, No. 138477 (Superior Ct., filed Dec. 17, 1982) 563
Consumer Energy Council of America v. Federal Energy Regulatory Commission, 673 F.2d 425 (D.C. Cir. 1982), *aff'd*, 51 U.S.L.W. 3935 (U.S. June 28, 1983) 804
Consumers Counsel v. Public Utilities Commission, 67 O.O.3d 96, 423 N.E.2d 820 (1981) 554
Consumers Union of the United States v. Federal Trade Commission, 691 F.2d 575 (D.C. Cir. 1982), *aff'd*, 51 U.S.L.W. 3935 (U.S. June 28, 1983) 804
Dry Color Manufacturers Association v. Department of Labor, 486 F.2d 98 (3d Cir. 1973) 670
Federal Energy Commission v. Mississippi, 456 U.S. 742 (1982) 249
Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944) 550
Florida Peach Growers Association v. United States Department of Labor, 498 F.2d 120 (5th Cir. 1974) 671
Friends of the River v. Federal Energy Regulatory Commission, 720 F.2d 93 (D.C. Cir. 1983) 780
Geer v. Connecticut, 161 U.S. 519 (1896) 136
Globe Newspaper Co. v. Superior Court, 457 U.S. 596 (1982) 373
Grazing Fields Farm v. Goldschmidt, 626 F.2d 1068 (1st Cir. 1980) 782
Hodel v. Virginia Surface Mining and Reclamation Association, 452 U.S. 264 (1981) 248
Houchkins v. KQED, 438 U.S. 1 (1978) 370
Hudson County Water Co. v. McCarter, 209 U.S. 349 (1908) 114, 148
Illinois v. Milwaukee, 406 U.S. 91 (1972) 193

Immigration and Naturalization Service v. Chadha, — U.S. —, 103 S. Ct. 2764 (1983) 792
Industrial Union Department v. American Petroleum Institute, 448 U.S. 607 (1980) 633
Industrial Union Department v. Bingham, 570 F.2d 965 (D.C. Cir. 1974) 666
Industrial Union Department v. Hodgson, 499 F.2d 467 (D.C. Cir. 1974) 639
Kleindienst v. Mandel, 408 U.S. 753 (1972) 365
Loretto v. Teleprompter Manhatten CATV Corp., 458 U.S. 419 (1982) 45
Middlesex County Sewerage Authority v. National Sea Clammers Association, 435 U.S. 1 (1981) 193
Munn v. Illinois, 94 U.S. 113 (1876) 547
Nachman Corp. v. Pension Benefit Guaranty Corp., 592 F.2d 947 (7th Cir. 1979)
National League of Cities v. Usery, 426 U.S. 833 (1976) 25
National Wildlife Association v. Benn, 491 F. Supp. 1234 (S.D. N.Y. 1980) 247
National Wildlife Federation v. Costle, 629 F.2d 118 (D.C. Cir. 1980) 725
National Wildlife Federation v. Watt, 571 F. Supp. 1145 (D. D.C. 1984) 818
Pell v. Procunier, 417 U.S. 817 (1974) 368
Penn Central Transportation Co. v. New York City, 438 U.S. 104 (1978) 44
Permian Basin Area Rate Cases, 390 U.S. 747 (1968)
Pike v. Bruce Church, Inc., 397 U.S. 137 (1970) 67, 110
Ray v. Atlantic Richfield Co., 435 U.S. 151 (1978) 65
Re Boston Edison Co., 46 Pub. Util. Rep. 4th (PUR) 431, *appeal aff'd, Attorney General v. Department of Public Utilities*, 390 Mass. Adv. Sheets 208, 455 N.E.2d 414 (1983) 541
Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555 (1980) 371
Roosevelt Campobello International Park Commission v. United States Environmental Protection Agency, 684 F.2d 1041 (1st Cir. 1982) 744
Saxbe v. Washington Post Co., 417 U.S. 843 (1974) 361
Secretary of Interior v. California, — U.S. —, 104 S. Ct. 656 (1984) 425, 442
Sporhase v. Nebraska ex rel. Douglas, 458 U.S. 941 (1982) 105, 117

State of California v. Watt, 520 F. Supp. 1359 (D. Cal. 1981) 435

State of California v. Watt, 683 F.2d 1253 (9th Cir. 1982) 483

State of Ohio v. Georgeoff, 562 F. Supp. 1300 (N.D. Ohio 1983) 12

State v. Sporhase, 208 Neb. 703, 305 N.W.2d 614 (1981) 119

Strycker's Bay Neighborhood Council v. Karlen, 444 U.S. 223 (1980) 762

Texas Independent Ginners Association v. Marshall, 620 F.2d 398 (5th Cir. 1980) 681

United States v. A&F Materials Company, Inc., 578 F. Supp. 1249 (S.D. Ill. 1984) 397

United States v. New England Pharmeceutical, 579 F. Supp. 823 (W.D. Ma. 1984) 398

United States v. Northeastern Pharmeceutical and Chemical Co., Inc., 579 F. Supp. 823 (W.D. Mo. 1983) 13

United States v. Outboard Marine Co., 556 F. Supp. 54 (N.D. Ill. 1982) 397

United States v. Price, 577 F. Supp. 1103 (D. N.J. 1983) 396

United States v. Reilly Tar & Chemical Corp., 546 F. Supp. 1100 (D. Minn. 1982) 9

United States v. Republic Steel Corp., 362 U.S. 482 (1960) 188

United States v. Wade, 546 F. Supp. 785 (D. Penn. 1982) 398

United States v. .16 of an Acre of Land, 517 F. Supp. 1115 (E.D. N.Y. 1981) 244

United Steelworkers of America v. Marshall, 647 F.2d 1189 (D.C. Cir. 1980), *cert. denied*, 453 U.S. 913 (1981) 641

Usury v. Turner Elkhorn Mining Co., 428 U.S. 1 (1976) 24

Vermont Yankee Power Group, Inc. v. Natural Resources Defenses Council, Inc., 435 U.S. 519 (1978) 764

Virginia State Board of Pharmacy v. Virginia County Consumer Council, 425 U.S. 748 (1976) 365

STATUTES

Admininstrative Procedures Act, 5 U.S.C. § 551 (1976) 631

California Conservation Easement Act, Cal. Civ. Code §§ 815-816 (West 1982) 217

Cape Cod National Seashore Act, 16 U.S.C. § 459b (1982) 227

Clean Water Act, 33 U.S.C. §§ 1251-1376 (1983) 3, 194, 337, 412

Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. § 1451-1464 (1982) 425

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"), 42 U.S. §§ 9601-9657 (1975 & Supp. V 1981) 2, 199, 383

Congressional Budget and Impoundment Control Act, 31 U.S.C. § 1403 (1976) 796

Deep Seabed Hard Mineral Resources Act, 30 U.S.C. §§ 1401-1473 (Supp. V. 1981) 276

Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 (1982) 519

Federal Land Policy and Management Act (FLPMA), 43 U.S.C. §§ 1701-1784 (1982) 791

Federal Trade Commission Improvements Act, 15 U.S.C. § 57(a)(1) (1982) 804

Federal Water Pollution Control Act (FWPCA), 22 U.S.C. §§ 1311-1362 (1982) 584

Foreign Assistance Act of 1961, 22 U.S.C. § 2291 (1982) 502

Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801-1812 (1976 & Supp. V 1981) 52

Illinois Environmental Protection Act, ILL. REV. STAT. ch. 111 1/2 §§ 1001-1051 (1979) 186

Immigration and Nationality Act, 8 U.S.C. § 1254(c)(2) (1982) 792

Indiana Environmental Management Act (EMA), IND. CODE §§ 13-7-1-1 to 13-7-19-3 (1982) 184

International Convention on the Prevention of Marine Pollution by Dumping of Waste (The London Dumping Convention), 33 U.S.C. § 1412(a) (1982) 713

Magnuson Fishery Conservation and Management Act, 16 U.S.C. §§ 1801-1882 (1982), as amended by Pub. L. No. 98-623, § 404,

98 Stat. 3408 (1984) 484
Marine Mammal Protection Act, 16 U.S.C. §§ 1361-1407 (1982), as amended by Fishing Acts, Amendments, Pub. L. No. 98-364, §§ 101-04, 98 Stat. 440 (1984) 485
Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA), Publ. L. No. 95-532, 86 Stat. 1052 (codified as amended 16 U.S.C. §§ 1431-1434 (1982) & 33 U.S.C. §§ 1401-1434 (1982) & 33 U.S.C. §§ 1401-1444 (1976 & Supp. V 1981)) 196
Massachusetts Clean Waters Acts, MASS. GEN. LAWS ANN. ch. 21, §§ 26-53 (West 1981 & Supp. 1984) 591
Massachusetts Environmental Policy Act (MEPA), MASS. GEN. LAWS ANN. ch. 30, §§ 61-62H (West 1979) 593
Massachusetts Water Resources Authority Act, 1984 Mass. Acts 372 606
Michigan Environmental Protection Act, MICH. COMP. LAWS ANN. §§ 691.1201-.1207 (West 1979) 186
Migratory Bird Treaty Act, 16 U.S.C. §§ 702-711 (1982) 487
National Environmental Policy Act (NEPA), 42 U.S.C. § 4321-4370 (1976 & Supp. V (1981) 73, 510, 589
National Gas Policy Act, 15 U.S.C. § 3342(c) (1982) 804
North Pacific Fisheries Act, 16 U.S.C. §§ 1021-1035 (1982) 485
NEB. REV. STAT. §§ 46-233.01, -613-01 (1978) 118
Nuclear Waste Policy Act of 1982 823
Occupational Safety and Health Act, 29 U.S.C. § 655(a) (1976) 631
Open Space Easement Act of 1974, CAL. GOV'T CODE §§ 51070-51097 (West 1983) 217
Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. §§ 1331-1378 (1953), amended by OCSLA Amendments, 43 U.S.C. § 1802, Pub. L. 95-372, 92 Stat. 629 (1978) 436, 445
Pelly Amendment to the Fisherman's Protective Act of 1967, 22 U.S.C. § 1978 (1982) 482
Refuse Disposal Act, IND. CODE §§ 36-9-30-1 tp 36-9-31-23 (1982) 185
Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901-6987 (Supp. 1981) 4, 199, 382

Rivers and Harbors Act, 33 U.S.C. §§ 401-426(m) (1982) (as amended) 188

Routing and Training Requirements for Radioactive Materials, HM-164, 49 C.F.R. § 177.825 and Appendix A (1982) 53, 69

U.S. CONST. art. I, § 5, cl. 3 343

U.S. CONST. art. I, § 8, cl. 3 (commerce clause) 63, 105

U.S. CONST. art. I, § 9, cl. 3 (*ex post facto*) 46

U.S. CONST. art. I, § 10 (contracts clause) 36

U.S. CONST. art. VI, § 2 (supremacy clause) 64

U.S. CONST. amend. IV 547

U.S. CONST. amend. V (due process clause) 20

U.S. CONST. amend. V (takings clause) 40, 542

War Powers Act, 50 U.S.C. § 1541 (1982) 796